

GREG WILLIAMS

IBLA 85-763

Decided July 20, 1987

Appeal from a decision of the Grand Resources Area Manager, Bureau of Land Management, granting Special Recreation Permit MD-85-GR-023R.

Dismissed.

1. Appeals: Generally -- Rules of Practice: Appeals: Standing to Appeal

Regulation 43 CFR 4.410, setting forth the standard regarding who may appeal to the Board of Land Appeals, contains two separate and discrete prerequisites: (1) that appellant be a party to the case, and (2) that appellant be adversely affected by the decision on appeal. An appeal by a stockholder of a corporation is properly dismissed for lack of standing where the issue raised by appellant is the ownership of the corporation and the decision does not purport to adjudicate that issue.

APPEARANCES: Greg Williams, pro se.

OPINION BY ADMINISTRATIVE JUDGE GRANT

Greg Williams has appealed the May 17, 1985, issuance of Special Recreation Permit No. MD-85-GR-023R to Sidewinder River Expeditions (SRE). The permit was approved by the Grand Resource Area Office, Bureau of Land Management (BLM).

SRE, a Utah corporation, has annually applied for and received a special recreation permit from BLM for commercial river running since 1974. The trips have traditionally been conducted on the Colorado, Green, and Dolores rivers.

On March 13, 1985, BLM transmitted to SRE c/o Greg Williams a bill for commercial-river-user fees in the amount of \$ 103.20 to cover the 1985 permit. 1/ Payment was not received and on March 26, 1985, BLM transmitted a followup letter by certified mail. This letter was returned by the post office

1/ Actual fees were \$ 413.40. However, a prior overpayment of \$ 310.20 was credited to their account.

"unclaimed by addressee." A report in the case file discloses attempts were made by BLM to contact appellant by phone. However, the phone had been disconnected.

In an effort to determine the status of the company, BLM contacted an officer of the First Western National Bank in Moab, Utah, a creditor of SRE, which had previously expressed a concern regarding the status of the permit. The bank indicated that it had an interest in SRE as did two other stockholders.

Subsequently, on May 14, 1985, Jim Fielder, representing himself as a stockholder in SRE, filed an application with BLM on behalf of SRE for renewal of the permit for the 1985 season. Thereafter, according to a staff report dated June 12, 1985, appearing in the file, BLM officials made an analysis of the documentation of corporate ownership provided to BLM and "decided to renew [SRE's] permit for 1985 based on Mr. Fielder's request representing Sidewinder."

On June 5, 1985, appellant filed a notice of appeal of BLM's renewal of the permit in response to Fielder's application on behalf of SRE. Appellant asserted he was the authorized "custodian of river permit operations of SRE," and further stated, in light of the BLM action, he could not guarantee the safety of SRE river operations. According to a memorandum to the file dated June 12, 1985, the BLM Area Manager discussed the permit situation with appellant on June 10, 1985, and was informed that Fielder was not authorized to sign for SRE and that an agreement for acquisition of a 25-percent ownership interest in SRE by Fielder was in default for breach of the agreement. 2/

In his statement of reasons for appeal, appellant asserts the BLM decision to renew the permit, in effect, transferred permit privileges without compliance with the required procedures to an unauthorized person representing himself as SRE's agent.

[1] Although special recreation permits have for several years been issued in response to an application bearing the appellant's signature, the applications have always been applied for in the name of and issued to SRE as a corporate entity. Indeed, from 1974 through 1976 the permit was issued to SRE on the basis of applications filed by David Stauffer (1974) and David S. Durant (1975 and 1976). The issue of the transfer of river-rafting permits

2/ The case file contains an agreement executed Feb. 9, 1984, by Jim Fielder, President of Zig Zag River Runners, Ltd., and Greg Williams, President of SRE, providing for acquisition by Zig Zag of a 25-percent equity interest in SRE in consideration of services rendered in the promotion of Colorado River trips. The record also contains a letter dated Dec. 3, 1984, from Jim Fielder discussing a somewhat different distribution of ownership. The record also contains a letter from Fielder dated Jan. 17, 1985, discussing a still different ownership arrangement.

through the sale of a corporate permittee is not new to BLM and BLM has been sensitive to the need to know the owner of permit privileges in order to protect the public interest. See David Farley, Inc., 90 IBLA 112 (1985). However, it is clear from the record in this case that BLM was informed of the apparent transfer of ownership to Fielder in advance of the approval of renewal of the permit to SRE. The record reveals that BLM officials checked on the reputation of Fielder as an operator of river-rafting expeditions and were apparently satisfied as a preliminary matter that the public interest would not be prejudiced by his participation in SRE.

We find nothing in the record before the Board to establish how appellant, as an owner of SRE, has been adversely affected by the decision of BLM to reissue the permit to SRE. Regulation 43 CFR 4.410 sets forth the standards regarding who may appeal to the Board: "Any party to a case who is adversely affected by a decision of an officer of the Bureau of Land Management * * * shall have a right to appeal to the Board." In Oregon Natural Resources, 78 IBLA 124, 125 (1984), the Board examined this regulation accordingly:

There are two separate and discrete prerequisites to prosecution of an appeal before this Board: (1) that the appellant be a "party to the case," and (2) that the appellant be "adversely affected" by the decision appealed from. See 43 CFR 4.410. Denial of a protest makes an individual a party to a case. Such a denial, however, does not necessarily establish that an individual is adversely affected. Rather, an unsuccessful protestant must show that a legally recognizable "interest" has been adversely affected by denial of the protest. In re Pacific Coast Molybdenum Co., 68 IBLA 325 (1982).

As a shareholder and representative of SRE, appellant qualifies as a party to the case. Although it appears there is a dispute as to the ownership of the corporate permittee, SRE, this is a matter which can only be resolved by agreement or litigation among the parties involved. BLM is properly interested in ascertaining the ownership of the permittee corporation. However, it has no jurisdiction to adjudicate who those owners are and has not purported to do so here. We find no evidence that appellant has been adversely affected by the decision to reissue the permit to SRE.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the subject appeal is dismissed.

C. Randall Grant, Jr.

Administrative Judge

We concur:

Franklin D. Arness,
Administrative Judge.

James L. Burski
Administrative Judge

